

### **REMARKS**

In the September 21, 2006 Office Action, claims 1-18 were rejected in view of prior art. No other objections or rejections were made in the Office Action.

#### ***Status of Claims and Amendments***

Applicants have amended the title of the invention as indicated above. Moreover, Applicants have amended independent claims 1, 11 and 12, and added a new independent claim 19 as indicated above. Thus, claims 1-19 are pending, with claims 1, 11, 12 and 19 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

#### ***Specification***

Applicants have amended the title of the invention as indicated above. This amendment is deemed necessary because the title of the invention listed in the PCT publication, PAIR entry, and the official filing receipt for this application is different from that provided by Applicants at the time of national phase entry. Correction is therefore respectfully requested.

#### ***Rejections - 35 U.S.C. § 102***

In paragraphs 1 and 2 of the Office Action, claims 1-2, 7-8, and 10-12 were rejected under 35 U.S.C. §102(b) as being anticipated by JP 4-072160 to (hereinafter the '160 reference). Applicants have amended independent claims 1, 11 and 12 to clearly define the present invention over the prior art of record.

In particular, independent claims 1, 11 and 12 have been amended to recite that the thickness of the sealed package is adjusted based upon the difference between the temperature of the outside air and the temperature of the gas. Support for this amendment can be found on page 15, lines 31-36 and page 16, lines 1-8 and 24-35 of the present

specification. Applicants respectfully submit that this feature is *not* disclosed or suggested by the '160 reference, or any other prior art of record. In particular, Applicants respectfully submit that this feature is not present in the '160 reference, because the invention in the '160 reference is designed to prevent damage to the tips of the bristles on a toothbrush stored in the package by preventing the portion of the package near the bristles from collapsing. However, in order to achieve this feature, a relatively rigid plastic must be used to form the package of the '160 reference – it cannot be achieved by using a flexible packaging material such as that used to package foodstuffs. Thus, injecting a gas having a temperature that is lower than that of the outside air into the package of the '160 reference in order to reinforce the rigid plastic with air pressure, and thereby prevent a collapse of the package from occurring near the bristles, cannot be said to be the same feature as that now present in claims 1, 11 and 12, i.e., an adjustment in the thickness of the package based upon the difference between the temperature of the outside air and the temperature of the gas in the package.

Therefore, Applicants respectfully submit that independent claims 1, 11 and 12, as now amended, are not anticipated by the prior art of record. Withdrawal of this rejection is respectfully requested.

With regard to rejected dependent claims 2, 7-8 and 10, Applicants believe that these claims are also allowable over the prior art of record in that they depend from independent claim 1 and therefore are allowable for the reasons stated above. In addition, these dependent claims are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not anticipate independent claim 1, neither does the prior art anticipate these dependent claims.

Moreover, with regard to dependent claim 7, the Office Action appears to equate the gas temperature modifying unit recited in dependent claim 2 with the control unit recited in

dependent claim 7. Applicants respectfully argue that this interpretation is incorrect. As can be seen on page 13 of the present specification, the gas temperature modifying unit (the cooling unit 4) is distinct from the control unit (control unit 7). Furthermore, Applicants respectfully submit that the '160 reference fails to disclose a control unit that is configured to control the temperature and amount of gas in the sealed package, and thus dependent claim 7 is allowable over the prior art for this reason as well.

***Rejections - 35 U.S.C. § 103***

In paragraphs 3-6 of the Office Action, dependent claims 3-6 were rejected under 35 U.S.C. §103(a) as being unpatentable over the '160 reference in view of US Patent 5,546,733 to Paltrineri (hereinafter the '733 patent), dependent claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over the '160 reference in view of US Patent 6,729,108 to Tsuruta, and dependent claims 13-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over the '160 reference in view of US Patent 6,843,037 to Nolfi, Jr. (hereinafter the '037 patent).

However, in view of the arguments advance above with regard to independent claims 1 and 12, Applicants believe that claims depending therefrom are also allowable over the prior art of record. In addition, these dependent claims are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest the invention as set forth in independent claims 1 and 12, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Moreover, with regard to dependent claims 3-6, Applicants respectfully disagree with the reasons given in the Office Action for rejecting these claims. The '733 patent discloses a temperature sensing device (15) comprising a plurality of temperature sensors (16). This temperature sensing device determines the amount of content (e.g., cold juice) to

be filled into a package by sensing the temperature difference between the outer surface of the package adjacent to the content and the outer surface of the package that is adjacent to the void space above the content (e.g., air that is at room temperature). When a predetermined temperature difference is detected, a signal will be sent to a master unit (17) that will regulate the flow of content into the package.

The '733 patent also discloses a system for use when the content is a liquid at room temperature or warmer. In this situation, a heater 14 (electric or hot air) will heat a portion of the package above the temperature sensing device, and when this heated portion is detected, a signal will be sent to the master unit in order to regulate the flow of content into the package (see col. 5, lines 44-67 and col. 6, lines 1-6). The '733 patent also discloses that a gas supply pipe 13 can supply heated or cooled gas into the package in order to provide a sufficient temperature difference between the content and the void space above the content (see col. 6, lines 7-35).

However, in the present application, claim 3 recites that the gas can be cooled by cooling the article to be packaged, claim 4 recites that the gas can be cooled by cooling the packaging material, claim 5 recites that the gas can be cooled by cooling the introducing unit, and claim 6 recites that the gas can be cooled by cooling the forming unit. Applicants respectfully submit that none of these features are disclosed by the '733 patent, and thus dependent claims 3-6 are allowable over the prior art for this reason as well.

Furthermore, with regard to dependent claim 15, Applicants again respectfully disagree with the reasons given in the Office Action for rejecting this claim. The '037 patent simply fails to disclose a thermal application unit that blows hot air onto the package, and thus dependent claim 15 is allowable over the prior art for this reason as well.

Finally, Applicants respectfully note that the Office Action simply states that dependent claims 16-18 are obvious over the combination of the '160 reference and the '037 patent, but has provided no indication whatsoever as to how these references render the elements of these claims obvious. The Office Action states only that the '037 patent discloses post-processing the manufactured package by elevating temperature. However, Applicants note that claims 16-18 do not recite this feature. Thus, Applicants respectfully submit that claims 16-18 are allowable over the prior art.

***New Claim 19***

Applicants have added a new independent claim 19, and respectfully submit that it is allowable over the prior art for the same reasons advanced above. Note that the "outside air temperature acquisition unit" and "adjustment unit" of claim 19 correspond to components of the cooling unit of the present invention, and support for these elements can be found on page 13, lines 14-22.

***Prior Art Citation***

In the Office Action, additional prior art references were made of record. Applicants believe that these references do not render the claimed invention obvious.

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In view of the foregoing amendment and comments, Applicants respectfully assert that pending claims are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

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